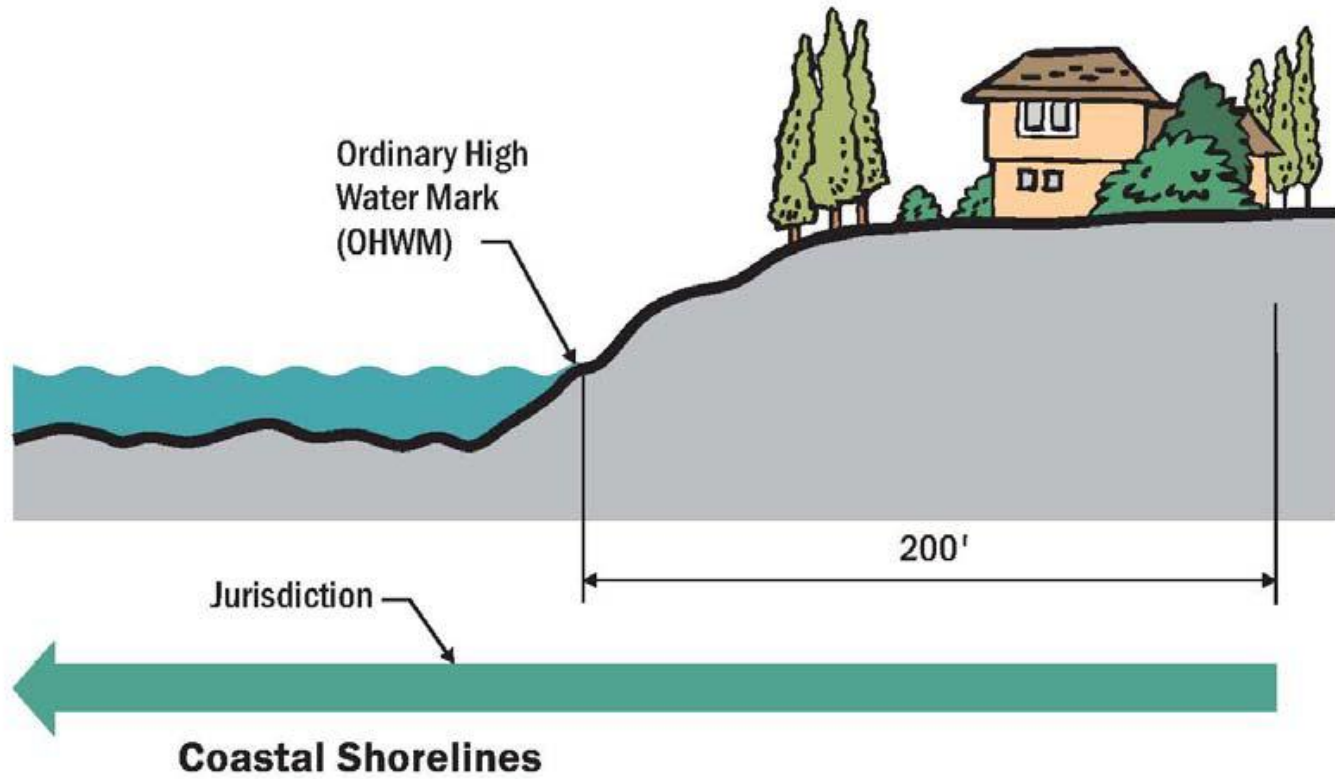


Shoreline Restoration and the Ordinary High Water Mark

Washington Department of Ecology
Betty Renkor
October 2011



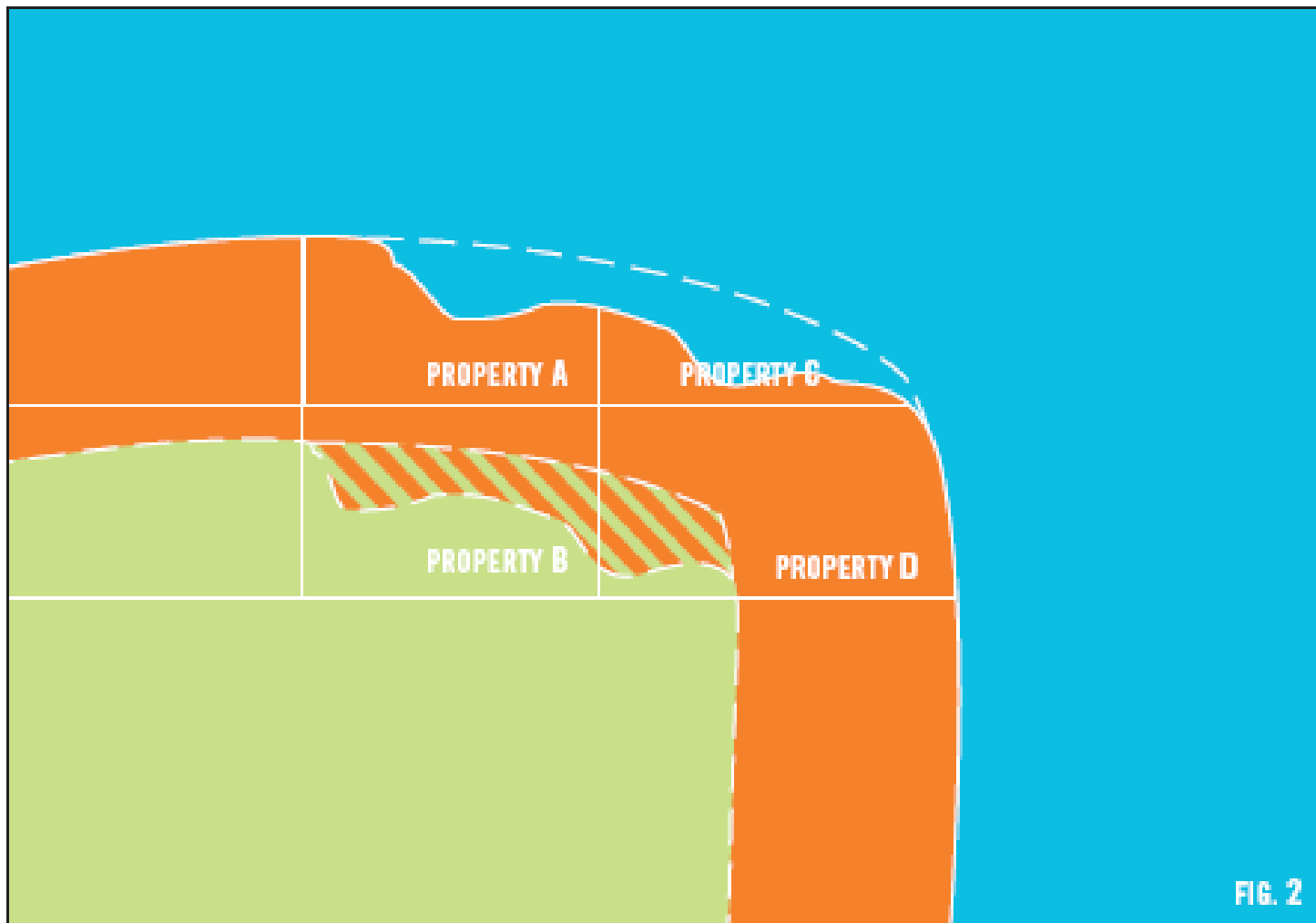


FIG. 2

*The Shoreline Management Act Jurisdiction And Incentives
For Shoreline Restoration Projects*
Eric Laschever, Preston Gates & Ellis, LLP

SMA offers relief

(RCW 90.58.580)

- ❑ Applies in cities and urban growth areas.
- ❑ Substantial Development Permits not required.
- ❑ Doesn't apply if restoration = mitigation.



Green Shorelines, City of Seattle

Relief process

- Property owners: File with local government as part of required permit.
- Local government: If approve, send permit to Ecology for approval.
- Ecology: Provide 20-day notice to interested parties, post on web site, before approval.

Criteria for relief

- ▣ *“Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.”*

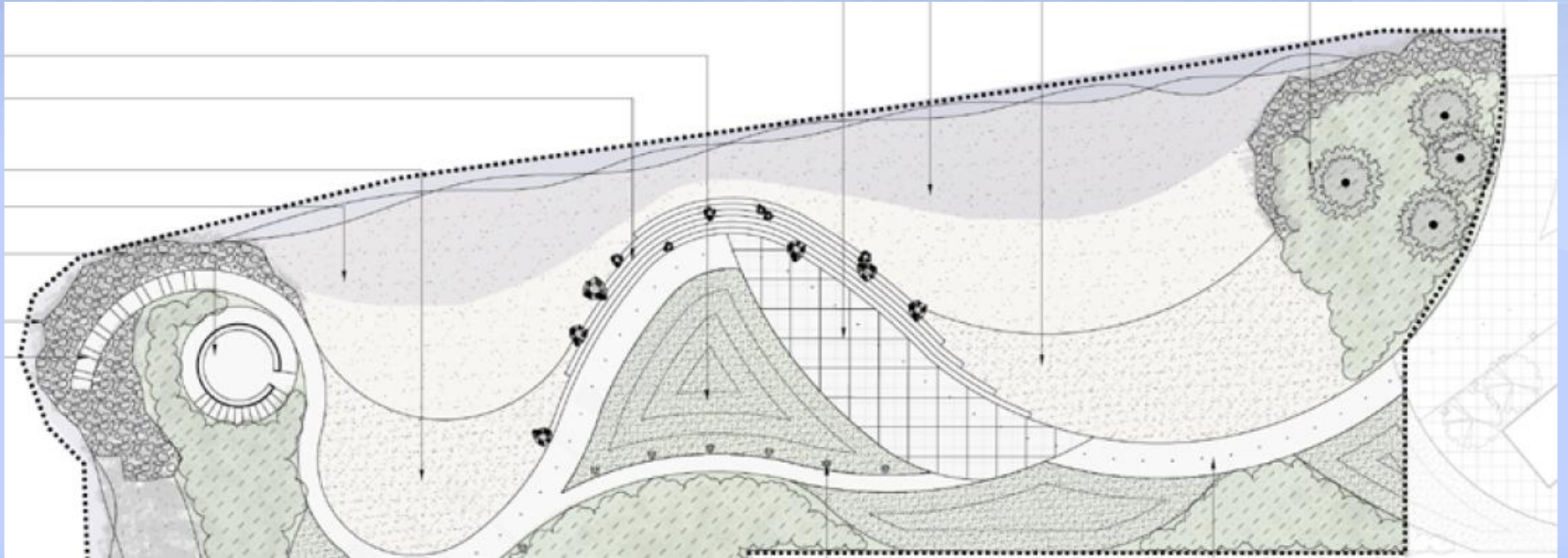
(RCW 90.58.580(1)(a)(ii))

Criteria for relief

- ❑ Minimum necessary to relieve hardship.
- ❑ Net environmental benefit from restoration.
- ❑ Consistent with objectives of restoration project and local SMP.



Martha Washington Park, Seattle



Downtown Port Angeles

Waterfront and Transportation Improvement Plan

SMPs apply

- SMPs regulate potential restoration areas and uplands.
 - Environment designations needed.
 - Policies and regulations apply until relief is approved by local government & Ecology.

SMP updates

- Good time to think about this:
 - Restoration projects (required thinking!)
 - Potential problems for development.



Martha Washington Park, Seattle

SMP updates

- ❑ No Ecology public notice required if SMP or restoration plan identifies:
 - Specific restoration project.
 - Shoreline reach where “relief” is appropriate.
- ❑ Address in SMP – be consistent with SMA

Find it here

The screenshot shows a Windows Internet Explorer browser window displaying the Washington Department of Ecology website. The address bar shows the URL: <http://www.ecy.wa.gov/programs/sea/shorelines/smp/toolbox/process/task4.1.html>. The website header includes the Department of Ecology logo and navigation links for Home, WATER, AIR, WASTE, CLEANUP, TOXIC HAZARDS, GREEN, About Us, and Jobs. A secondary navigation bar lists Programs, Services, Publications & Forms, Databases, Laws & Rules, Public Involvement Calendar, and Public Records. The main content area is titled "Shoreline Master Programs (SMPs)" and features a left sidebar with links to Shoreline Master Programs, Citizen Guide, Shoreline Planners Toolbox, Permits and Enforcement, Media Kit, Special Topics, Laws, Rules, and Cases, News, Publications, and Contacts. The main text area is titled "Task 4.1: Prepare restoration plan" and contains the following text:

Developing a shoreline restoration plan is one of the most important tasks in updating a Shoreline Master Program (SMP). Without a well designed restoration plan, most local governments probably cannot meet the "no net loss" standard of the [SMP Guidelines](#). Research has shown that even the best designed and implemented mitigation projects are subject to some degree of failure. A restoration plan, therefore, is needed to offset the expected loss of function that will occur from site-specific mitigation and other incremental impacts sustained over time. ([SMP Handbook: Chapter 4, No Net Loss of Shoreline Ecological Functions](#))

The restoration plan is a framework for restoration based on the shoreline inventory and characterization. It should include a list of ongoing, proposed and potential restoration projects. The restoration plan can address both non-regulatory and regulatory restoration projects.

The inventory and characterization of ecosystem processes and functions ([SMP Handbook: Chapter 7](#)) provides the basic information for the restoration plan. The inventory and characterization report includes products related to restoration: a map showing "opportunities" for shoreline restoration and protection, and a list of shoreline management measures to protect and restore ecosystem processes and shoreline functions. The map and list of measures can serve as the framework to establish priorities for restoration projects that will have a greater potential benefit. Identification of existing and ongoing restoration efforts unique to each community should also compliment local shoreline restoration plan goals and objectives.

Restoration plans provide an opportunity to consider anticipated or existing development. This includes development that could be affected by the landward extension of shoreline jurisdiction from anticipated shoreline restoration projects. [Regulatory relief for restoration projects](#) was added to the Shoreline Management Act by the 2009 State Legislature ([RCW 90.58.580](#)), which helps ensure regulations designed to protect our shorelines do not become an obstacle to habitat restoration.

Restoration planning will vary among local governments, depending on:

- Size of local government.
- Extent and condition of shorelines.
- Availability of grants, volunteer programs or other restoration tools.
- Nature of the ecological functions to be addressed.

The taskbar at the bottom shows several open applications, including Microsoft PowerPoint, Internet Explorer, and various folders.

<http://www.ecy.wa.gov/programs/sea/shorelines/smp/toolbox/process/task4.1.html>